

REMARKS/ARGUMENT

The applicants' attorneys appreciate the Examiner's thorough search and remarks.

Responsive to the objection set forth in paragraph 1 of the Office Action the specification has been corrected according to the Examiner's suggestion. Withdrawal of the objection is requested.

Responsive to the objections set forth in paragraphs 2 and 3 of the Office Action, claims 9, 10 and 11 have been corrected according to the Examiner's suggestions. Withdrawal of the objections against claims 9, 10 and 11 is requested.

Claims 1-13 are in the application.

Claim 1 has been rejected under 35 U.S.C. §103(a) over Nakamura et al., U.S. Patent No. 5,627,583 in view of Eino, U.S. Patent No. 6,120,435.

The present application was filed on February 2, 2000. Eino was issued on September 19, 2000. Thus, Eino is a reference, if at all, under 35 U.S.C. §102(e).

Pursuant to 35 U.S.C. §103(c) and MPEP §706.02(k) effective "November 29, 1999, subject matter which was prior art under former 35 U.S.C. 103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention 'were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person'. This change to 35 U.S.C. 103(c) applies to all utility, design and plant patent applications filed on or after November 29, 1999."

Pursuant to MPEP §706.02(1)(2) (Page 700-39), common ownership as required by 35 U.S.C. §103(c) can be established by a statement made for the record. Thus, to establish common ownership as required by 35 U.S.C. §103(c) it is submitted that the present application and Eino were, at the time the invention of the present application was made, owned by Olympus Optical Co., Ltd. of Japan. Thus, pursuant to MPEP §706.02 and 35 U.S.C. §103(c) Eino may not be used as a reference against claim 1 under 35 U.S.C. §103(a).

It is respectfully submitted that the rejection of claim 1 should be withdrawn.

Claims 2-13 depend from claim 1, and therefore include its limitations. It is respectfully submitted that the rejection of these claims should also be withdrawn.

The application is believed to be in condition for allowance. Such action is earnestly solicited.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Asst. Commissioner for Patents, Washington, D.C. 20231, on November 1, 2002:

Kourosh Salehi

Name of applicant, assignee or
Registered Representative



Signature

November 1, 2002

Date of Signature

KS:gl:ck

Respectfully submitted,



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